

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1412

IN THE MATTER OF:

Application of BELTWAY)
LIMOUSINE SERVICE, INC.)
for Temporary Authority)

Served March 18, 1975

Application No. 855

By Order No. 1399, served January 22, 1975, the Commission granted in part and denied in part Application No. 855 of Beltway Limousine Service, Inc. (Beltway). The Commission granted Beltway temporary authority to transport passengers and their baggage between Dulles International Airport (Dulles) or Washington National Airport (National), on the one hand, and on the other, specified hotels and/or motels in Montgomery County and Prince George's County, Maryland. The Commission found that there was an immediate and urgent need for limousine service by appointment between Dulles or National and the specified hotels or motels and that there was no carrier service capable of meeting this specific need.

On February 21, 1975, Air Transit, Inc., and Yellow Cab of Montgomery County, Inc. (petitioners) filed a petition for reconsideration of Order No. 1399. The Compact Title II, Article XII, Section 16, provides for the filing of "an application in writing requesting a reconsideration of the matters involved, and stating specifically the errors claimed as grounds for such reconsideration". In that the petition is in written form and states the errors claimed as grounds, it shall be deemed an appropriate application for reconsideration.

Petitioners set forth four separate claims as to errors made by the Commission. First, petitioners submit that Order No. 1399 establishes a precedent antithetical to the concept of regulated transportation by granting a temporary authority application filed by a carrier who has knowingly operated for a six months

period in violation of the Compact. Second, the petitioners assert that the Commission has failed to abide by the mandate set forth in Title I, Article II of the Compact. Third, the petitioners claim the Commission erred in finding that the record developed in the proceeding with respect to Beltway's Application No. 849 supports a finding of an immediate and urgent need. Fourth, the petitioners claim that the Commission erred in finding that there was no carrier service capable of meeting such need.

Petitioners submit that the Commission has failed to consider the fitness of Beltway and that this omission has resulted in the granting of temporary authority to a carrier who has knowingly been in clear violation of the Compact for six months. The burden of establishing fitness properly to perform a proposed transportation service rests upon the applicant. The determination as to whether this burden has been met must be made by the Commission upon full consideration of the nature and extent of the violations that may have occurred and any mitigating circumstances shown to have existed. Thereupon, the Commission may determine (a) whether the carrier's conduct represents a flagrant and persistent disregard of the provisions of the Compact, (b) whether the carrier has made a sincere effort to correct past mistakes, and (c) whether applicant is willing to comport itself properly in the future.

This Commission never has and never will condone operations performed in violation of the provisions of the Compact. Operations conducted in violation of the provisions of the Compact trigger consideration of the carrier's fitness. The issue of the fitness of any carrier necessarily must be based upon a reasonable consideration of the actions of the carrier. No single facet can be considered with complete disregard for the entire circumstances which result in the issue of fitness being presented for determination.

Beltway operated for a period of time without authority from this Commission. These operations were conducted in violation of the Compact. The unauthorized operations have not been presented as support for the permanent authority application or for the temporary authority application. Beltway ceased operating without the appropriate authority when so urged by the presiding officer representing the Commission at the hearing with respect to Beltway's Application No. 849. Beltway has indicated a willingness and ability to comport itself properly

in the future. The Commission does not believe that Order No. 1399 is antithetical to the concept of regulated transportation. Accordingly, the Commission's opinion that Beltway was fit to perform the authorized temporary operations will not be reconsidered.

The petitioners submit that the Commission did not follow the provision set forth in Title I, Article II, of the Compact. This provision bestows upon the Commission jurisdiction "for the regulation and improvement of transit... within the Metropolitan District on a coordinated basis". The petitioners request the Commission to protect their interests by according them special consideration because they are common carriers required by jurisdictions other than this Commission to provide service to all members of the public and to provide minimum levels of service at all times. The Commission has considered the role of the petitioners and the other members of the taxicab industry in the performance of transit services within the Metropolitan District. The Commission does not believe that its action in Order No. 1399 adversely affects the transit industry within the Metropolitan District. Accordingly, Order No. 1399 will not be reconsidered on this basis.

The petitioners further submit that the record does not support the findings set forth in Order No. 1399. The application for reconsideration presents no matters which were not considered by the Commission in Order No. 1399 or which warrant further consideration of the action therein ordered. Accordingly, the findings by the Commission in Order No. 1399 will not be reconsidered.

THEREFORE, IT IS ORDERED that the petition for reconsideration of Order No. 1399 filed jointly by Air Transit, Inc., and Yellow Cab of Montgomery County, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION



HYMAN J. BLOND
Executive Director